



DEPARTMENT OF TRANSPORTATION  
MATERIALS TRANSPORTATION BUREAU  
WASHINGTON, D.C. 20590

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Materials Transportation Bureau

[49 CFR Part 179]

[Docket No. HM-144; Notice No. 78-8]

**SPECIFICATION FOR PRESSURE TANK CAR  
TANKS: COMPLIANCE REPORTING**

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Materials Transportation Bureau (the Bureau) proposes to issue an amendment to the Department's Hazardous Materials Regulations requiring owners of DOT Specification 112 and 114 pressure tank cars to provide to the Bureau a listing of those cars bearing the owner's reporting mark and the plans of the owner to retrofit them with safety devices. In addition, the rule would require quarterly reporting concerning the efforts of the owner to meet established compliance deadlines and provide a definition of the term "tank car owner." The purpose of the proposed rule is to monitor the compliance of tank car owners with regulatory deadlines.

ATE: Comment by July 10, 1978.

**ADDRESS:** Comments to: Dockets Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 202590. It is requested that five copies of all comments be submitted.

**FOR FURTHER INFORMATION CONTACT:**

William F. Black, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, 202-426-2748.

**SUPPLEMENTARY INFORMATION:** The Materials Transportation Bureau published on September 15, 1977, a final rule establishing additional safety requirements for DOT Specification 112 and 114 tank cars (42 FR 46306). The requirements included improved couplers, tank head protection and thermal protection. Tank car owners were afforded a 4-year period to complete the application of required protective systems to cars built prior to January 1, 1978. On May 11, 1978, the Bureau published a notice of proposed rulemaking (NPRM) to shorten the period allowed for retrofit of these cars. 43 FR 20250. This rulemaking is proposed as a means of facilitating the implementation of the proposed retrofit program.

Information received at a Federal Railroad Administration (FRA) special

safety inquiry of April 7, 1978, indicated that a substantial shortening of the retrofit period was possible but would intensify both logistical and car availability problems. The "logistical" problems described by witnesses at the safety inquiry relate to the diversion of cars from their normal service in a controlled, incremental fashion to assure the full utilization of retrofit plant capacity. Problems of car availability will be directly impacted by the success of the tank car companies and private car shops in scheduling a phased retrofit of the fleet.

The Bureau is hopeful that tank car owners will take adequate measures to assure the phased completion of the retrofit without creating short-term critical shortages of 112 and 114 cars. The tank cars constitute a substantial portion of existing pressure tank car capacity for the transportation of certain essential fuels, fertilizers, and industrial chemicals. Due to the high demand for such equipment for use in transportation and as temporary storage, it is expected that tank car owners will have to make careful plans to assure completion of the program by the proposed regulatory deadlines.

Neglect by a tank car owner or owners to establish an adequate pace of retrofit could result in a failure to meet regulatory deadlines. Since it is the policy of the Bureau not to grant exemptions from the regulatory deadlines, it is possible that serious shortages of cars could exist on one or more of the regulatory deadlines as a result of an accumulation of unequipped cars which would be prohibited from use in transportation. It will, therefore, be necessary for the FRA, which is responsible for enforcing the tank car regulations, to monitor closely the manner in which tank owners comply with the regulatory deadlines. In the event it appears that any tank car owner has failed to establish a program leading to the timely completion of the retrofit tasks, FRA may find it necessary to institute compliance order proceedings under 49 CFR Part 209 (42 FR 56742; October 28, 1977) or take other, appropriate legal action.

The reporting rule proposed in this notice will provide the FRA with the information necessary to carry out its enforcement mission. In the judgment of the Bureau, the information requested does not go beyond the basic kind of data which tank car owners would have to develop in the normal course of business to facilitate compliance with the substantive regulations. Any cost directly attributable to the reporting requirement would, therefore, be limited to preparation of correspondence.

The proposed rule would not require the use of any standard form. Reporting requirements would lapse after completion of the retrofit process and submission of a final report.

FRA has estimated that fewer than 100 tank car owners would be required to submit reports under the rule. A separate amendment to the regulations would define tank car owner to mean a person whose reporting mark appears on the car. The definition will assure that the individual or business which is responsible for the control and maintenance of the car is also responsible for seeing that the car is equipped with the required safety devices.

**Section 179.105-9.** The Bureau proposes to establish basic reporting requirements under a new section 179.105-9. The section would require four basic kinds of reports.

**Initial report.** Paragraph (a) would require each tank car owner to make an initial report to FRA not later than September 30, 1978, providing specific information concerning the type of retrofit package which will be employed, and describing the progress already made to comply with the retrofit schedule.

**Quarterly report.** Paragraph (b) would require each tank car owner to provide a quarterly update of the progress made in applying head protection, thermal protection, and improved couplers.

**Final report.** Paragraph (c) would require each tank car owner to certify in a final compliance report, the completion of the retrofit program.

**Report on change in status.** Paragraph (d) would require the reporting, in connection with the quarterly submission, of any material event bearing on the responsibility of any person with respect to the accomplishment of the retrofit tasks. The purpose of this provision is to assure that responsibility for compliance can be fixed on the appropriate person and to provide an explanation for any irregularities caused by the transfer or destruction of any cars.

**Section 179.105-1(d).** The Bureau proposes to define "tank car owner," as that term is used in connection with requirements for specification 112 and 114 tank cars, to mean any person whose assigned reporting mark appears on the tank car. The reporting mark system is used in the railroad industry as a basis for identifying effective responsibility for and control of rolling stock. For practical compliance purposes, then, the "tank car owner" described by the proposed definition is also the person who "marks, main-

tains, reconditions, repairs, or tests" a tank car within the meaning of section 105 of the Hazardous Materials Transportation Act (49 U.S.C. 1804).

Primary drafters of this document are William F. Black, Office of Safety, and Grady Cothen, Jr., Office of Chief Counsel, Federal Railroad Administration.

In consideration of the foregoing, Part 179 of Title 49, Code of Federal Regulations would be amended as follows:

In § 179.105, paragraph (d) would be added in § 179.105-1 and a new § 179.105-9 would be added to read as follows:

**§ 179.105 Special requirements for specifications 112 and 114 tank cars.**

**§ 179.105-1 General.**

(d) As used in this section 179.105, "tank car owner" means a person whose reporting mark appears on any specification 112 or 114 tank car.

**§ 179.105-9 Compliance reporting.**

(a) By September 30, 1978, but not earlier than September 1, 1978, each tank car owner shall report to the Associate Administrator for Safety, FRA (Attention: RRS-25), the following information concerning specification 112 and 114 pressure tank cars bearing the owner's reporting mark:

(1) The total number of such cars and a list of applicable reporting marks (by consecutive series, where appropriate);

(2) A declaration of intent concerning the number of cars scheduled to be equipped to each of the respective specifications subject to this section (i.e., 112A/114A, 112S/114S, 112T/114T, 112J/114J and the disposition of any remaining 112/114 cars;

(3) A description of steps being taken to comply with § 179.105-3 (previously built cars), including—

(i) The number of cars scheduled to be equipped to specifications 112S/114S and 112T/114T, respectively,

which (1) have been equipped with a tank head puncture resistance system meeting the requirements of § 179.105-5; and (2) remain to be equipped with a tank head puncture resistance system;

(ii) The number of cars scheduled to be equipped to specification 112T/114T which (1) have been equipped with a thermal protection system that meets the requirements of § 179.105-4; and (2) remain to be equipped with a thermal protection system;

(iii) The number of cars scheduled to be equipped to specification 112J/114J which (1) have been equipped with the thermal protection system and tank head protection system required by §§ 179.105-4 and 179.105-5; and (2) remain to be equipped to specification 112J/114J.

(iv) The number of cars which have been equipped with a coupler restraint system meeting the requirements of § 179.105-6 and remain to be equipped with such a system.

(b) By the last day of the calendar month following the end of each quarter, each tank car owner shall submit to the Associate Administrator for Safety, Federal Railroad Administration (Attention: RRS-25), a progress report updating the information required to be submitted by paragraphs (a)(2) and (a)(3) of this section. The first report shall be submitted by January 31, 1979.

(c) When a tank car owner has equipped all 112 and 114 cars built prior to January 1, 1978, with the devices required by § 179.105 for the type of service in which the cars are to be utilized, the tank car owner shall certify in a final compliance report to the Associate Administrator for Safety,

Federal Railroad Administration (Attention: RRS-25), that all 112 and 114 tank cars are properly equipped. Following the submission of that certificate, no further reports shall be required under paragraph (b) of this section, unless the tank car owner subsequently acquires additional cars requiring the application of devices required by § 179.105.

(d) Each tank car owner, including any person attaining to such status at any time prior to the last date on which protective devices are required to be applied by § 179.105-3, shall include in the quarterly report required by paragraph (b) of this section a listing by reporting mark of all 112 and 114 tank cars acquired, transferred, or destroyed during the quarter, specifying the action taken with respect to each car. In the case of cars newly acquired, the quarterly report shall also provide the information required by paragraph (a) (2), (3) of this section.

(45 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring the preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107 nor an environmental impact statement under the National Environmental Policy Act.

(49 U.S.C. 4321 et seq.)

Issued in Washington, D.C., on June 2, 1978.

ALAN I. ROBERTS,  
Director, Office of  
Hazardous Materials Operations.  
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